

REMARKS

Claims 28-65 are pending. Claims 52, 53, 63, and 64 are withdrawn from consideration. Claims 1-27 were previously canceled. Claims 28, 35-36, 38, 40-41, 43-44, 57-59, 62, and 65 have been amended to more clearly set forth aspects of the invention. Claims 32-34 are cancelled herein. Accordingly, claims 28, 35-36, 38, 40-41, 43-44, 57-59, 62, and 65 as amended, and dependent claims therefrom and claims 54-56 are under consideration.

Support for the amendments to the claims is found throughout the specification and in the original claims. Specifically, support for amendment to claim 28 is found in original claims 23-25, previously presented claims 32-34, and in the specification at page 3, lines 12-16; at page 8, line 15 through to page 9, line 17; and at page 12, lines 3-7. Support for amendment to claim 36 is found in previously presented claim 36 and in the specification at page 6, lines 13-16. Claims 35-36, 38, 40-41, 43-44, 57-59, 62, and 65 are amended to change claim dependencies recited therein so as to conform to the present amendments and provide antecedent basis for terms recited therein. No issue of new matter is introduced by the amendments to the claims.

**Rejections Under the Judicially Created Doctrine of Obviousness-Type
Double Patenting**

The Examiner has rejected claims 28-44, 47-51, 54-62, and 65 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1, 9, and 20 of U.S. Patent No. 6,340,592. Claims 32-34 are canceled herein, thereby obviating any rejection of these claims. A Terminal Disclaimer is attached hereto, the filing of which is believed to overcome the above rejection of pending claims 28-31, 35-44, 47-51, 54-62, and 65 of the present invention under the judicially created doctrine of obviousness-type double patenting.

The Examiner has rejected claims 28-51, 54-62, and 65 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1, 9, and 20 of U.S. Patent No. 6,197,585. Claims 32-34 are canceled herein, thereby obviating any rejection of these claims. A Terminal Disclaimer is attached hereto, the filing of which is believed to overcome the above rejection of pending claims

28-31, 35-51, 54-62, and 65 of the present invention under the judicially created doctrine of obviousness-type double patenting.

Rejections under 35 USC § 112

Claims 28-33, 36-41, 45-48, 54-62, and 65 have been rejected under 35 USC § 112, first paragraph, for containing subject matter that was allegedly not described by the specification in a manner sufficient to convey that the inventor was in possession of the claimed invention at the time of filing. The Examiner acknowledges that the specification describes the use of conditional oncogenes for the step of immortalization of cells followed by termination of the immortalization. Although Applicant respectfully disagrees with the Examiner's assertions as to possession of the invention with regard to means other than oncogenes, the claims are amended herein to expedite prosecution of the claims to allowance. Specifically, the claims are amended to be directed to the use of immortalizing oncogenes for the above process step. Accordingly, Applicant believes that this rejection of the claims is obviated and respectfully requests that the rejection be withdrawn.

Claims 28-33, 36-41, 45-48, 54-62, and 65 have been rejected under 35 USC § 112, first paragraph, for an alleged lack of enablement. The Examiner affirms that the specification is enabling for immortalizing agents which are oncogenes. Although Applicant respectfully submits that the specification is enabled for immortalizing agents other than oncogenes, the claims are amended herein to expedite prosecution. As presently amended, the claims recite that the immortalizing agents are immortalizing oncogenes. In view of the above, the rejection of claims 28-33, 36-41, 45-48, 54-62, and 65 is obviated and Applicant respectfully requests that the rejection be withdrawn.

Claims 49-51 are rejected under 35 USC § 112, second paragraph, for alleged indefiniteness. Claims 49 and 50, and therefore 51, recite "the immortalising oncogene" for which the Examiner maintains there is insufficient antecedent basis in claim 47. Applicant respectfully directs the Examiner's attention to the language of claim 28, on which claim 47 depends, and wherein antecedent basis is presented for the term "the immortalising oncogene". In view of the above, Applicant respectfully requests that the rejection be withdrawn.

Fees

No additional fees are believed to be necessitated by this amendment. However, should this be an error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overpayment.

Conclusion

It is submitted, therefore, that the claims are in condition for allowance. No new matter has been introduced. From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. In the event that there are any questions concerning this amendment, or application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,



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Enclosures: Terminal Disclaimer
Supplemental Information Disclosure Statement